

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JAMES YATES,

Plaintiff,

v.

BECHTEL JACOBS CO., LLC, *et al.*,

Defendants.

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No. 3:09-CV-51
(Phillips)

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by United States Magistrate Judge H. Bruce Guyton [Doc. 30]. There have been no timely objections to the R&R, and enough time has passed since the filing of the R&R to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the Court is in complete agreement with the magistrate judge’s conclusion that Plaintiff’s Motion for Attorney Fees [Doc. 25] be denied without prejudice. Accordingly, the Court **ACCEPTS IN WHOLE** the R&R [Doc. 30] under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the R&R [Doc. 30], which the Court adopts and incorporates into its ruling, that Plaintiff’s Motion for Attorney Fees [Doc. 25] be **DENIED WITHOUT PREJUDICE**. **Plaintiff may refile such motion if he prevails on the underlying ERISA claim.**

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge